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Dallas, TX 75201
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August 12, 2014

Marvin Benton
United States Environmental Protection Agency
1445 Ross Avenue,
Suite 1200,
Dallas, TX 75202-2733

Re: Wilcox Oil Superfund Site Bristow, Oklahoma // To: Sun Pipe Line Company

Case No. -

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C T Corporation System is not the registered agent for an entity by the name of Sun Pipe Line Company.

CT was unable to forward.

Very truly yours,

C T Corporation System

Log# 525489881

Sent By Regular Mail

cc: United States Environmental Protection Agency
1445 Ross Avenue,
Suite 1200,
Dallas, TX 75202-2733

(Returned To)

Marvin Benton
United States Environmental Protection Agency
1445 Ross Avenue,
Suite 1200,
Dallas, TX 75202-2733





United States
Environmental Protection Agency
Region 6
1445 Ross Ave, Ste 1200
Dallas, Tx 75202-2733

<http://www.epa.gov/region6>
1-800-887-6063

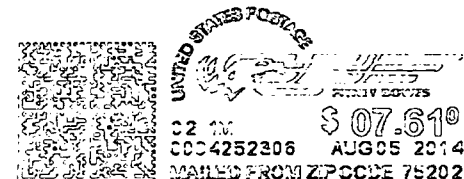
REPLY TO MAIL CODE: LSF-TK

Official Business
Penalty for Private Use \$300
An Equal Opportunity Employer

CERTIFIED MAIL™



7014 0150 0000 2453 4327



Registered Agent for Sun Pipe Line Company
Corporation Service Company
Lawyers Incorporating Service Company
1999 Bryan Street, Suite 900
Dallas, Texas 75201

completed on the reverse side?



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

AUG 05 2014

REVISED AOC TO SPECIAL NOTICE LETTER – URGENT LEGAL MATTER
CERTIFIED MAIL: #7014 0150 0000 2453 4327

Corporation Service Company
Registered Agent for
Sun Pipe Line Company
1999 Bryan Street, Suite 900
Dallas, Texas 75201

Dear Sir/Madam:

Enclosed please find EPA's Revised Administration Order on Consent. EPA will be using this revised AOC as we begin our Good-Faith negotiations. Please disregard the AOC that was sent to you as part of the Special Notice Letter package that was mailed to you on Monday July 28, 2014.

If you have any questions regarding this matter please contact EPA Senior Attorney Marvin Benton at 214-665-3190.

Thank you for your cooperation,

Very truly yours,

A handwritten signature in black ink, appearing to read "Marvin Benton", with a large, stylized flourish underneath.

Marvin Benton
Senior Attorney, Regional Counsel

Enclosure: Revised AOC

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

IN THE MATTER OF:
Wilcox Oil SUPERFUND SITE
Bristow, Oklahoma

ADMINISTRATIVE ORDER ON
CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY

See Appendix A for List of Respondents,
Respondents

U.S. EPA Region 6
CERCLA Docket No. _____

Proceeding under Sections 104, 107 and 122
of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. §§ 9604, 9607 and
9622.

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and the Respondents listed in Appendix A, incorporated by reference herein ("Respondents"). The Settlement Agreement concerns the preparation and performance of a remedial investigation and feasibility study ("RI/FS") at the Wilcox Oil Superfund Site ("Site"), located at in the N ½ of the NW ¼ of S29 T16N R9E and the SW ¼ of the SW ¼ of S20 T16N R9E in Creek County, Oklahoma and the reimbursement for future response costs incurred by EPA in connection with the RI/FS.

2. This Settlement Agreement and Order on Consent is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated by the Regional Administrator of EPA Region 6 to the Superfund Division Director by EPA Delegation No. R6-14-14-C (August 4, 1995).

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the Federal and State natural resource trustees on July

16, 2014 of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal and State trusteeship.

4. EPA and Respondents recognize that this Settlement Agreement and Order on Consent has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Order do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement and Order on Consent, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement and Order on Consent. Respondents agree to comply with and be bound by the terms of this Order and further agree that they will not contest the basis or validity of this Settlement Agreement and Order on Consent or its terms.

II. PARTIES BOUND

5. This Settlement Agreement and Order on Consent applies to and is binding upon EPA and upon Respondents and their heirs, successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Settlement Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement and Order on Consent. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Settlement Agreement and Order on Consent, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and Order on Consent and comply with this Settlement Agreement and Order on Consent. Respondents shall be responsible for any noncompliance with this Settlement Agreement and Order on Consent.

8. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and Order on Consent and to execute and legally bind Respondents to this Settlement Agreement and Order on Consent.

III. STATEMENT OF PURPOSE

9. In entering into this Settlement Agreement and Order on Consent, the objectives of EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation as more specifically set forth in the Statement of Work ("SOW") attached as Appendix B to this Settlement Agreement and Order on Consent; (b) to identify and evaluate

remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study as more specifically set forth in the SOW in Appendix B to this Order; and (c) to recover response and oversight costs incurred by EPA with respect to this Order.

10. The Work conducted under this Settlement Agreement and Order on Consent is subject to approval by EPA and shall provide all appropriate and necessary information to assess Site conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondents shall conduct all Work under this Settlement Agreement and Order on Consent in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures.

IV. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Settlement Agreement and Order on Consent that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement and Order on Consent or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall be the effective date of this Order as provided in Section XXIX.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Texas Commission on Environmental Quality" shall mean the State pollution control agency and any successor departments or agencies of the State.

f. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, and vertical barriers.

g. "Future Response Costs" shall mean all costs, including, but not limited to;

direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry ("ATSDR") costs, the costs incurred pursuant to Paragraph 54 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 40 (emergency response), and Paragraph 84 (Work takeover)".

h. "Institutional controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

i. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

j. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

k. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, the SOW, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by EPA. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

l. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.

m. "Parties" shall mean EPA and Respondents.

n. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

o. "Respondents" shall mean those Parties identified in Appendix A.

p. "Section" shall mean a portion of this Order identified by a Roman numeral.

q. "Site" shall mean the Wilcox Oil Superfund Site, encompassing approximately 125 acres, located at N ½ of the NW ¼ of S29 T16N R9E and the SW ¼ of the SW ¼ of S20

T16N R9E in Creek County, Oklahoma and depicted generally on the map attached as Appendix C.

r. "State" shall mean the State of Oklahoma.

s. "Statement of Work" or "SOW" shall mean the Statement of Work for development of a RI/FS for the Site, as set forth in Appendix B to this Order. The Statement of Work is incorporated into this Order and is an enforceable part of this Order as are any modifications made thereto in accordance with this Order.

t. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

u. "Work" shall mean all activities Respondents are required to perform under this Order, except those required by Section XIV (Retention of Records).

V. FINDINGS OF FACT

12. The Wilcox Oil Superfund site is an inactive and abandoned oil refinery located in Creek County, Oklahoma. The site consists of contaminated areas and surface water bodies due to the release from the former Lorraine and former Wilcox Refineries. These refineries were located in the N ½ of the NW ¼ of S29 T16N R9E and the SW ¼ of the SW ¼ of S20 T16N R9E in Creek County, Oklahoma.

13. The geographical coordinates for the site are 35°50'26.8966" north latitude and 96°22'48.693" west longitude. The property covers approximately 125 acres.

14. Two refinery process facilities and storage tank areas once operated at the two facilities. Recent investigations (2009-2011) indicate the site area contains elevated concentrations of metals and organic compounds in the former storage tank areas, surface soils, surface impoundment and sediments. Levels of metals and/or oily non aqueous phase liquid (NAPLs) were also detected in three private residential wells on site, and from three wells adjacent to the property. A former church facility and six residents are presently on the Site.

15. A large volume of visible waste is present where refined product and crude oil storage tanks were once located. Approximately 4 inches of crude oil were discovered on the former church property when a cap broke off an existing pipeline. Hydrocarbon sheen was visible when digging 2-3 feet below ground surface. Elevated levels of metals and semi-volatiles are present in waste samples collected.

16. The Site property was utilized by two different refineries with overlapping boundaries from 1915 to 1965. The Site includes remnants of former oil refining operations and tank farms. The

tank farm covers approximately 80 acres and has a number of refinery waste source areas of concern, including, a backfilled oily waste pond, a breached settling pond, a backfilled oily waste pit, a former pond apparently backfilled with solid refinery waste, and a number of tank bottoms. Groundwater containing oily waste liquid of a hydrocarbon nature is currently leaching into drainage ditches and surface waters at the Site. The results of samples collected observed releases to shallow ground water, surface water, sediment and subsurface soils. The results indicated high concentration of petroleum hydrocarbons, lead, and poly aromatic hydrocarbons in oily waste at numerous locations on Site. There are high concentrations of lead throughout the Site. There are multiple areas of stressed vegetation, barren areas, and visible black tarry waste of a hydrocarbon nature throughout the 125 acre Site.

17. In summary, the surface soils and subsurface soils are contaminated with pesticides, volatile organics, and heavy metals. The onsite surface water bodies and groundwater are contaminated with volatile organics and heavy metals. The sediments are contaminated with pesticides and heavy metals. Eighty (80) Solid Waste Management Units (SWMUs) (including approx. 30 sumps and 10 drum/drum storage/drum crushing areas) have been identified onsite to date that are deemed areas of concern.

18. A detailed title search in the Creek County Clerk office confirms that the property was used in oil refinery operations from 1915 until November 1963.

19. The Site was listed on the National Priorities List ("NPL") pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on December 12, 2013.

20. The list of Respondents in Appendix A numbered 1 (one) through 5 (five) previously owned and/or operated one or more of the properties within the Site at the time hazardous substances were released.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, EPA has determined that:

21. The Wilcox Oil Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

22. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

23. The conditions described in Section V of the Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

24. Each Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

25. Respondents are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622. Each Respondent is a person who either generated the hazardous substances found at the Site, is a person who at the time of disposal of any hazardous substances owned or operated the Site, or is a person who arranged for disposal or transport for disposal of hazardous substances at the Site. Each Respondent therefore may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

26. The actions required by this Order are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

27. EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Order.

VII. SETTLEMENT AGREEMENT AND ORDER

28. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Order, including, but not limited to, all appendices to this Settlement Agreement and Order on Consent and all documents incorporated by reference into this Settlement Agreement and Order on Consent.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

29. Selection of Contractors, Personnel. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Order, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the

replacements within 30 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

30. Within 30 days after the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 14 days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA seven (7) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents.

31. EPA has designated Bart Canellas, P.E. of the EPA Region 6 Superfund Division as its Remedial Project Manager ("RPM"). EPA will notify Respondents of a change of its designated RPM. Except as otherwise provided in this Order, Respondents shall direct all submissions required by this Order to the RPM at the US EPA Region 6, 6SF-RA, 1445 Ross Ave., Dallas, TX 75202 or by electronic mail if so directed by the RPM.

32. EPA's RPM shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, EPA's RPM shall have the authority consistent with the NCP, to halt any Work required by this Order, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA RPM from the area under study pursuant to this Order shall not be cause for the stoppage or delay of Work.

33. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FS Work Plan.

IX. WORK TO BE PERFORMED

34. Respondents shall conduct the RI/FS in accordance with the provisions of this Order, the SOW, CERCLA, the NCP and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Usability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the SOW, as may be amended or modified by EPA. The Remedial Investigation ("RI") shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study ("FS") shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Order.

35. Upon receipt of the draft Feasibility Study ("FS") report, the EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

36. Modification of the RI/FS Work Plan.

a. If at any time during the RI/FS process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA RPM within fifteen (15) days of identification. The EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into plans, reports and other deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA RPM by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that the EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, the EPA shall modify or amend the RI/FS Work Plan in writing accordingly. Respondents shall perform the RI/FS Work Plan as modified or amended.

c. The EPA may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. Respondents agree to perform these response actions in addition to those required by the initially approved RI/FS Work Plan, including any approved modifications, if the EPA determines that such actions are necessary for a complete RI/FS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to the EPA within 7 days of receipt of the EPA request. If Respondents object to any modification determined by the EPA to be necessary pursuant to this Paragraph, Respondents may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by the EPA in a written modification to the RI/FS Work Plan or written RI/FS Work Plan supplement. The EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit the EPA's authority to require performance of further response actions at the Site.

37. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to the EPA's Designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the remedial investigation and feasibility study. Respondents shall provide the information required by Subparagraph 37.a and 37.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain the EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section

121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

38. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of the EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at the EPA's discretion.

39. Progress Reports. In addition to the plans, reports and other deliverables set forth in this Order, Respondents shall provide to the EPA monthly progress reports by the ___th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Order during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

40. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Settlement Agreement and Order on Consent, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA Project Coordinator or, the Regional Duty Officer at (866) 372-7745 of the incident or Site conditions. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and the EPA takes such action instead, Respondents shall reimburse the EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the EPA Project Coordinator, the OSC or Regional Duty Officer at (866) 372-7745 and the National Response Center at (800) 424-8802. Respondents shall submit a written report to the EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

41. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Order, in a notice to Respondents the EPA will: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, the EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within fifteen (15 days), except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

42. In the event of approval, approval upon conditions, or modification by the EPA, pursuant to Subparagraph 41(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by the EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by the EPA. Following EPA approval or modification of a submission or portion thereof, Respondents shall not thereafter alter or amend such submission or portion thereof unless directed by the EPA. In the event that the EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 41(c) and the submission had a material defect, the EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

43. Resubmission.

a. Upon receipt of a notice of disapproval, Respondents shall, within fifteen (15) days or such longer time as specified by the EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 15-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 41 and 42.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by the EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval, approval on condition or modification of the following deliverables: RI/FS Work Plan and Sampling and Analysis Plan, Draft Remedial Investigation Report and Treatability Testing Work Plan and Sampling and Analysis Plan and Draft Feasibility Study Report. While awaiting EPA approval, approval on condition or modification of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth under

this Order.

d. For all remaining deliverables not listed above in subparagraph 43.c., Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. The EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

44. If the EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, the EPA may again direct Respondents to correct the deficiencies. The EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by the EPA, subject only to Respondents' right to invoke the procedures set forth in Section XV (Dispute Resolution).

45. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by the EPA due to a material defect, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and the EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by the EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If the EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI.

46. In the event the EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by the EPA into the final reports.

47. All plans, reports, and other deliverables submitted to the EPA under this Order shall, upon approval or modification by the EPA, be incorporated into and enforceable under this Order. In the event the EPA approves or modifies a portion of a plan, report, or other deliverable submitted to the EPA under this Order, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement and Order on Consent.

48. Neither failure of the EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by the EPA. Whether or not the EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to the EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION